

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

IN RE: Chapter 11
Case No. 05-17930 (ALG)
(Jointly Administered)
NORTHWEST AIRLINES
CORPORATION, et al, New York, New York
Wednesday, June 25, 2008
11:05 a.m.
Reorganized Debtors.
.....

TRANSCRIPT OF HEARING
BEFORE THE HONORABLE ALLAN L. GROPPER
UNITED STATES BANKRUPTCY JUDGE

APPEARANCES:

For the Debtors: Nathan A. Haynes, Esq.
CADWALADER, WICKERSHAM & TAFT, LLP
One World Financial Center
New York, New York 10281
For the Post-Effective Date Committee: John Paul G. Igoe, Esq.
OTTERBOURG, STEINDLER, HOUSTON
& ROSEN, P.C.
230 Park Avenue
New York, New York 10169
For Creditor Craig Friday: James Gauthier, Esq.
(Via telephone)
Pro Se: Jesse Velez
Audio Operator: Electronically Recorded
by Court Personnel
Transcription Company: Rand Reporting & Transcription, LLC
80 Broad Street, Fifth Floor
New York, New York 10004
(212) 504-2919
www.randreporting.com
Proceedings recorded by electronic sound recording, transcript
produced by transcription service.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

I N D E X
6/25/08

Page

REORGANIZED DEBTORS' MOTION FOR AN ORDER DISSOLVING THE DISTRIBUTION SUBRESERVES CREATED IN CONNECTION WITH CONFIRMATION OF THE REORGANIZED DEBTORS' FIRST AMENDED JOINT AND CONSOLIDATED PLAN OF REORGANIZATION	4
DEBTORS' MOTION FOR AN ORDER EXTENDING THE ADMINISTRATIVE EXPENSE CLAIMS OBJECTION DEADLINE	6
FINAL DECREE AND ORDER CLOSING CERTAIN CHAPTER 11 CASES	7
REORGANIZED DEBTORS' TIER III(B) OBJECTION TO PROOF OF CLAIM NUMBER 6335 FILED BY CRAIG S. FRIDAY	8
DEBTORS' MOTION TO ESTIMATE AND CAP PROOF OF CLAIM NUMBER 10341 FILED BY JESSE VELEZ	25

Note: Argument by Mr. Gauthier Via Telephone Not Adequately
Recorded for Verbatim Transcription.

1 (Proceedings commence at 11:05 a.m.)

2 THE COURT: Please be seated. All right. Northwest
3 Airlines, may I have -- oh, we should get one party on the
4 phone.

5 (Court personnel dialing for telephonic appearance.)

6 THE COURT: Good morning. This is Judge Gropper. I
7 will take appearances from those in the courtroom, and then
8 from those on the telephone. I assume I have some
9 representatives on the telephone.

10 MR. GAUTHIER: That is correct, Your Honor.

11 THE COURT: All right.

12 MR. HAYNES: Good morning, Your Honor. Nathan Haynes,
13 Cadwalader, Wickersham & Taft for the debtors.

14 MR. IGOE: Good morning, Your Honor. John Paul Igoe
15 of Otterbourg, Steindler, Houston & Rosen for the post-
16 effective date committee of unsecured creditors.

17 THE COURT: And will anyone else be appearing? Are
18 you Mr. Velez?

19 MR. VELEZ: Yes.

20 THE COURT: Come forward -- you can sit at the table
21 if you wish -- and just please state your name for the record.
22 You can stay right there.

23 MR. VELEZ: Right here? Okay.

24 THE COURT: Yes. The microphone picks it up. Just
25 state your name for the record.

1 MR. VELEZ: Jesse Velez, a claimant.

2 THE COURT: All right. And you're a claimant?

3 MR. VELEZ: Yes.

4 THE COURT: All right. And you are appearing here pro
5 se? You have no lawyer?

6 MR. VELEZ: No, sir.

7 THE COURT: All right. And on the telephone, please?

8 MR. GAUTHIER: Good morning, Your Honor. Jim Gauthier
9 representing Craig Friday who is also present.

10 THE COURT: All right. Anyone else on the phone? All
11 right. Very good. Yes?

12 All right. Please go ahead, Mr. Haynes.

13 MR. HAYNES: Good morning, Your Honor. Nathan Haynes,
14 Cadwalader, Wickersham & Taft for the debtors. Your Honor, by
15 your lead, we will proceed with several uncontested matters in
16 the first instance.

17 THE COURT: All right.

18 MR. HAYNES: Initially, Your Honor, the debtors'
19 motion for an order dissolving certain distribution
20 subreserves. As Your Honor may recall, in connection with the
21 confirmation of the plan, the debtors put a cap on the
22 distribution reserve in this case that was lower than the total
23 amount of disputed and undisputed claims on file at that time.
24 We obtained the approval of the cap based on the debtors'
25 estimate of where the claims pool would ultimately pan out.

1 Ultimately, Your Honor, the debtors' estimates have
2 proven correct, and we are now in a situation where the full
3 amount we are fully reserved for all filed disputed and
4 undisputed claims in the full filed amount of the disputed
5 claims such that if all disputed claims were allowed today in
6 their full filed amount, the holders of such claims would
7 receive the exact same pro rata distribution as all holders of
8 other general unsecured claims who were previously allowed --

9 THE COURT: Right. If I recall your papers, you have
10 had about eight billion -- between eight and nine billion
11 dollars of claims that have been allowed. Is that right?

12 MR. HAYNES: Yes, Your Honor. It's -- or I think
13 either the high sevens or the low eights at this point, and
14 there's still about 600 million that we're working -- that
15 we're working on.

16 THE COURT: 600 million is still being worked on. All
17 right.

18 MR. HAYNES: So accordingly, Your Honor, we have, just
19 for essentially housekeeping and administrative convenience, we
20 would like to dissolve those subreserves.

21 THE COURT: All right. Any --

22 MR. HAYNES: We did --

23 THE COURT: Go ahead.

24 MR. HAYNES: We did receive one informal response from
25 a party who was one of the subreserve claimants whose claim has

1 subsequently been allowed since the -- in the interim period
2 between the last distribution and the distribution that's going
3 to happen on July 1. And they just wanted us to make clear in
4 the order that they would reserve their catch-up distribution
5 in a timely fashion, which we have made that change, and
6 accordingly there are no other objections or responses to this
7 particular motion, Your Honor.

8 THE COURT: All right. Does anyone wish to be heard?
9 All right. Then we will grant that relief.

10 MR. HAYNES: Thank you, Your Honor. Turning your
11 attention to item two in the uncontested matters, the debtors'
12 motion for an entry of an order extending the administrative
13 expense and claim objection deadline under the plan of
14 reorganization.

15 Your Honor, at this point, the claims that we were
16 seeking to extend the objection deadline with respect to are
17 all the subject of continuing negotiations with the counter
18 parties. We may ultimately have to file objections, but we're
19 optimistic that we will be able to resolve these claims, and
20 accordingly to ease the burden on the estate as well as the
21 Court. We have -- instead of filing an objection and
22 proceeding on that ground, we would like some more time to try
23 to work it out with these particular parties.

24 THE COURT: And you have given notice to these
25 parties?

1 MR. HAYNES: Yes, Your Honor.

2 THE COURT: Does anyone wish to be heard? All right.
3 I'll grant that motion.

4 MR. HAYNES: Thank you. Your Honor, turning your
5 attention to item three, I'm pleased to present the reorganized
6 debtors' application for a final decree and order closing I
7 think it's twelve of the fourteen cases in these jointly
8 administered cases. The only cases that will remain open are
9 essentially the holding company case and the operating company
10 case. There are still certain claims against those particular
11 entities that we are working through and are not quite prepared
12 to try to close those cases at this point.

13 With respect to the other cases that we're seeking to
14 close, there are as noted in the motion several tax claims that
15 we're still working on which will be satisfied and paid
16 consistent with the plan. And additionally there is an IRS
17 claim that's outstanding that we expect will be resolved
18 shortly. Beyond that, there are no outstanding adversary
19 proceedings or other contested matters in those cases. We
20 would respectfully request that the Court enter an order
21 approving the closure.

22 We did receive a response from the U.S. Trustee who
23 wanted us to amend the proposed order to just provide that we
24 would pay the fees for this quarter as and when due. We have
25 made that change, and accordingly there is no objections to the

1 relief requested.

2 THE COURT: And I assume the whole purpose is to avoid
3 next quarter's U.S. Trustee fees.

4 MR. HAYES: That's correct, Your Honor.

5 THE COURT: Well, since you have cases outstanding, I
6 think it's appropriate. I don't know that you could close all
7 the cases before you have really resolved all the claims, but
8 under the circumstances -- does anyone wish to be heard? All
9 right. I'll grant the relief requested.

10 MR. HAYNES: Thank you, Your Honor. Your Honor, that
11 takes us to the first contested matter, the reorganized
12 debtors' objections to the claim filed by Craig Friday. As
13 Your Honor may gather from the papers in this matter, there has
14 been a long history of litigation between these two, between
15 Northwest and Mr. Friday.

16 And, Your Honor, the debtors do want to take advantage
17 of the fresh start provided by the bankruptcy code to end their
18 continuous litigation with Mr. Friday. And I think that there
19 is three things going on here. The first is with respect to a
20 wage claim filed by Mr. Friday, who is seeking wages from 1999
21 to the present.

22 Notwithstanding the voluminous documentation with
23 respect to this matter, the answer on that particular aspect of
24 the claim is very simple, which is that the Ninth Circuit has
25 already ruled that he has terminated his employment voluntarily

1 in 1999. That decision was rendered in 2002, and it has not
2 been overturned.

3 In addition, it's undisputed that he has been
4 receiving disability retirement pension which he would not
5 receive if he were -- if he had not voluntarily terminated.
6 Accordingly, Your Honor, that particular claim is done by
7 operation of res judicata.

8 Similarly, the next aspect of the claim for pass
9 travel, the Department of Labor has twice ruled that the
10 company did not remove his pass travel as a form of
11 retaliation, and in any event his claim for such pass travel
12 was late.

13 Finally, Your Honor, he is seeking wages and treatment
14 for I believe several hundred thousand dollars for the time
15 prior to December of 1999 when he was taken off the line for a
16 fitness-for-duty exam. And I think there's three aspects to
17 the debtors' response. The first is we can't find a grievance
18 that he said -- he said he has filed one. He said he wants to
19 pursue it, but we haven't seen it.

20 Secondly, in December of 1999, in connection with a
21 settlement, he waived all outstanding grievances. And I quote
22 from the transcript:

23 "And is it also your agreement and intention to
24 dismiss all the grievances associated with you that
25 are pending against the company except for the

1 grievance related to harassment which will be heard
2 either in January or February that you have filed,
3 have ever filed, and that dismissal, do you
4 understand, would be with prejudice?"

5 And to that he responded "yes."

6 And finally, as Your Honor may recall, over a year
7 ago, Captain Friday obtained relief from this Court to allow
8 him to commence an action in a non-bankruptcy forum to compel
9 arbitration of this purported grievance. During that time he
10 has not done so. Instead he filed a whistle-blower complaint
11 with the Department of Labor which was in violation of the
12 automatic stay and beyond the scope of this Court's relief.
13 That action was ultimately resolved against Mr. Friday, as
14 well.

15 Accordingly, Your Honor, we respectfully request that
16 Mr. Friday's claim be expunged. The claim does relate just to
17 these three aspects, and as I've set forth, unless you have any
18 further questions, I would turn the podium to Mr. Gauthier.

19 THE COURT: All right. Now, you say the action in the
20 DOL that was brought after the date of the petition was
21 resolved against Captain Friday.

22 MR. HAYNES: As I understand it, that's correct.

23 THE COURT: Is that information in the record?

24 MR. HAYNES: Let me check, Your Honor.

25 THE COURT: All right. All right. Mr. Gauthier or

1 Gauthier.

2 MR. GAUTHIER: Yes, Your Honor.

3 THE COURT: I don't mean to mispronounce your name.

4 MR. GAUTHIER: That's fine, Gauthier or Gauthier.

5 THE COURT: All right. And you're an attorney
6 appearing for Captain Friday today?

7 MR. GAUTHIER: That is correct, Your Honor.

8 THE COURT: All right. I have your papers. I have
9 read the papers from both sides. Please go ahead.

10 MR. GAUTHIER: Thank you, Your Honor. I would respond
11 to the debtors' objection with respect to the points that he
12 raised first. On the wage claim issues, Northwest
13 (indiscernible) references the 1999, where Mr. Friday moved
14 into disability retirement, and the dismissal by the federal
15 court of the claims related to that termination.

16 What Northwest is failing to understand is that Mr.
17 Friday's claim as filed in this Court relates to the fact that
18 -- well, let me first say Northwest has made the statement that
19 Mr. Friday was not an employee. Mr. Friday has no right to
20 (indiscernible) arbitration under the Early Labor Act. And,
21 you know, the reality is that when he went on medical
22 disability retirement, the contract (indiscernible) to return
23 to work, the only medical standard to return to work is just
24 possession of a first-class flight physical (indiscernible).

25 Mr. Friday presented that, or Captain Friday presented

1 that to Northwest Airlines, and they refused to allow him to
2 return to work at the end of the seventh year. He retained his
3 first-class physical during this period, and Northwest refused
4 to let him return to work, and they refused to process
5 grievances related to that, and in fact those materials were.

6 Northwest's ongoing approach is that our non-response
7 to Captain Friday's grievances (indiscernible) is our response.
8 The net result of that is Captain Friday's claim of right is
9 after those previous matters, and it deals with the seven years
10 after he voluntarily terminated to go on medical retirement.
11 And it deals with Northwest's retirement to allow him to
12 process the right to return to work under the disability
13 provisions of the contract.

14 That is the part that has not been addressed by
15 Northwest. That is the part that was not addressed by the
16 Department of Labor. Since everybody likes to jump on the, he
17 terminated his employment and therefore he has no rights. His
18 right and his grievance (indiscernible) post those cases and
19 post-termination. So Captain Friday --

20 THE COURT: Did he continue to receive disability
21 payments throughout the entire period?

22 MR. GAUTHIER: That's correct. He did, Your Honor.

23 THE COURT: And does he still?

24 MR. GAUTHIER: In December of 2006, the seven-year
25 period expired. Captain Friday couldn't get his grievances

1 heard, and Northwest issued Captain Friday a formal retirement
2 from the airline. I believe that was in December 2006. And
3 like I said, that very clearly shows that he did not terminate
4 his employment in 1999. Otherwise, how could he possibly have
5 retired formally in December of 2007?

6 So in this case (indiscernible) his ability to return
7 to work, and their intentional refusal to allow him to
8 arbitrate, and yet every time he would get into a different
9 type of forum, they would not permit him to go forward. The
10 same goes for the pass travel. Captain Friday has had his pass
11 privileges come and go over the last seven years, and it's not
12 uncommon for him to find out that his pass privileges are there
13 and Northwest argues that they were not taken away, and then
14 when he goes to use them, he finds that, you know, when his
15 name is put in, that they won't allow it. And again Northwest
16 is taking two different tacks on that.

17 And his pension with the airline, both as a retired
18 pilot and as a disabled pilot provides that he has had travel
19 benefits. And the only reason they were taken away from him
20 was in retaliation for his whistle-blower activities.

21 THE COURT: Now, was there a Department of Labor
22 hearing?

23 MR. GAUTHIER: No.

24 THE COURT: Or were there Department of Labor
25 proceedings?

1 MR. GAUTHIER: There have been, yes, but not on that.

2 THE COURT: And the DOL proceedings had nothing to do
3 with his travel privileges?

4 MR. GAUTHIER: Well, they're still looking at that,
5 Your Honor. It was part of their consideration. I don't know
6 if they have actually made a final ruling on that or not. The
7 Department of Labor has had to go back and reevaluate his
8 position, and because, you know, it wasn't what they had
9 accepted, that they were misled, they have now acknowledged
10 Captain Friday is an employee or was an employee during all
11 material times. And Congressman Reichert thought that
12 (indiscernible) get them to redo their secondary finding.

13 With respect to the grievance issues, there is no
14 doubt that in the disability retirement hearing that
15 (indiscernible), they basically make the statement that Captain
16 Friday terminated his employment, and in the material that you
17 have, what they don't state or continue to state is that
18 whatever rights Captain Friday or anybody under the plan, under
19 disability retirement, they have the same -- we would like to
20 put on the record if we could (indiscernible) that Craig Friday
21 would retain the rights as any other retired Northwest pilot
22 should he meet the conditions under the pension plan and under
23 the contract to return to work in the future.

24 So, you know, again, he's not being terminated. He's
25 been forced into medical retirement until he can return to work

1 and provide a certified physical, and that's part of his
2 contract under Section 13 and 15 and 20. And like I said,
3 that's been the big rub and why this case keeps going forward.
4 It has nothing to do with whether or not, you know -- you know,
5 the issue -- I mean, the issues are relating to whether or not
6 Captain Friday had a right to return to work, not whether he
7 terminated his employment back in 1999.

8 His grievances have never been heard, and Northwest
9 has repeatedly refused to process his grievances. We have run
10 out of options to (indiscernible) grievances are reviewed. Not
11 only the grievances, not -- and I want to make it clear we are
12 not asking this Court to determine the merits of Captain
13 Friday's grievances or anything else. All we're asking the
14 Court to do is look at the grievances that Captain Friday has
15 filed since his medical retirement, and because our wage claim
16 doesn't arise out of the termination (indiscernible) his
17 inability to return to work even though he met all the
18 requirements of the first-class physical. You know, that's
19 where the monetary claim arises (indiscernible) supposed to
20 look at this thing and take a (indiscernible) approach for
21 resolution of it, and basically bifurcate the matter into two
22 parts.

23 One, retain the jurisdiction of the claim until
24 Northwest arbitrates Captain Friday's grievances, and leave it
25 up to the federal arbitrators to determine the merits of

1 whether or not he even has a claim or not. This Court has no
2 jurisdiction on that aspect of it.

3 And then if, in fact, a determination is made by the
4 federal arbitrator that there is a financial claim or a
5 judgment or an award is made, then it can come up before this
6 Court to be determined on whether that claim should be, you
7 know, dealt with through the bankruptcy court as, you know,
8 something that should be discharged under Northwest's request
9 that they now get a fresh start.

10 Captain Friday would like to have a fresh start, as
11 well, and they have deprived him of his ability to return to
12 what he loves. (indiscernible) for seven years until finally
13 he's forced into, you know, formal retirement. The grievances
14 that Captain Friday is seeking to enforce are all post-
15 retirement grievances. They are not grievances that existed at
16 the time of his moving onto medical disability retirement. And
17 again, those are the grievances that they have repeatedly
18 refused to process.

19 And, you know, there's no dispute in the materials
20 that are submitted to the Court, Captain Friday is allowed, as
21 a retired pilot, to file grievances and have those heard, and
22 Northwest is refusing. The DOL is in the process of redoing
23 their investigation and dealing with this matter.

24 The DOL is the action that Captain Friday chose to
25 pursue. This Court has opened the door, and in the last

1 (indiscernible) and the Court said that this is a matter of
2 (indiscernible) and Captain Friday that is here before Your
3 Honor, and they are asking for some method to compel Northwest
4 Airlines to (indiscernible) the grievances that they have --

5 THE COURT: Are you saying I opened the door to a
6 Department of Labor proceeding? I'd like to know where in the
7 record that appears.

8 MR. GAUTHIER: Well, Your Honor, I don't have the
9 order in front of me, but you indicated that Captain Friday
10 could pursue his grievance process.

11 THE COURT: His grievance process. What does that
12 have to do with the Department of Labor?

13 MR. GAUTHIER: Because they can enforce the grievance
14 process as one of their remedies.

15 THE COURT: I certainly would like to know more about
16 that. I don't understand that that's the first -- is that the
17 first stage in the grievance? You go first to the Department
18 of Labor? You said that they can enforce. Is that the first
19 step you take in seeking to pursue a grievance?

20 MR. GAUTHIER: No, Your Honor. That's correct. It is
21 the --

22 THE COURT: And was there any other step that this man
23 took to pursue the grievance rights that he may have received,
24 anything else? Did he ask the union or ask the company for a
25 hearing, or did he present a grievance in writing to the

1 company?

2 MR. GAUTHIER: Yes, he did, Your Honor.

3 THE COURT: When was that? Where is that in the
4 record? Show me where that is in your papers.

5 MR. GAUTHIER: Oh, I don't believe we provided that,
6 Your Honor, because we didn't understand that that would be an
7 issue.

8 THE COURT: Well, it certainly is an issue. It's a
9 major issue.

10 MR. GAUTHIER: Then, Your Honor, we --

11 THE COURT: The debtors certainly raised it. They
12 claim that for purposes of laches, you waived any grievance
13 rights that I may have given you. Where -- so there is nothing
14 in the record on this proceeding that indicates that he asked
15 for a grievance, he asked to pursue a grievance with the
16 company.

17 MR. GAUTHIER: Your Honor, we understood, number one,
18 that your Court wouldn't deal with grievances.

19 THE COURT: My court? Well, then my prior allowance
20 of this grievance to go forward you're saying is a nullity
21 because I'm not dealing with grievances? Is that what you're
22 telling me?

23 MR. GAUTHIER: No, Your Honor. What I am saying is
24 that your order, as it was understood about Captain Friday to
25 proceed with -- you basically (indiscernible) left it open to

1 any forum to try --

2 THE COURT: No. I didn't -- certainly didn't open it
3 to any forum. There is a procedure relating to grievances.
4 That doesn't mean that parties can run into other courts and
5 other agencies. I'll give you forty-eight hours -- I'll give
6 you until -- I'll give you a week to get me all the
7 information, certified and with appropriate affidavits, that he
8 started a grievance proceeding with the company in accordance
9 with the ordinary grievance procedures. If, as you say, he did
10 it. I gather the company is telling me they have no record of
11 it. Is that right?

12 MR. HAYNES: Your Honor, how this plays out, this
13 order was entered in connection with Captain Friday and another
14 employee. And the way that the grievance procedure works is
15 that the grievance -- as I understand it, a grievance is
16 submitted to the company. The company -- if the company does
17 nothing, it's deemed denied, and then it goes to -- the union
18 has the ability to send it to arbitration.

19 In this instance, I don't know if he submitted any
20 grievance. We don't have it in the record here. But had he
21 submitted the grievance, it would have -- the company
22 presumably would have reviewed it and determined whether to
23 proceed on it or not. And if they did not, then ALPA would
24 have the ability to take it to arbitration.

25 THE COURT: Then where does the DOL come in?

1 MR. HAYNES: The DOL has nothing to do with it.
2 Thereafter, and this is how the Sturge (phonetic) matter played
3 out. Sturge, in connection with that order that you entered,
4 commenced an action against the debtors in a non-bankruptcy --
5 in district court to compel arbitration under the collective
6 bargaining agreement.

7 I'm not suggesting we want Mr. Friday to do that, but
8 that's how that's working out because similarly the debtors
9 denied the grievance, ALPA didn't pursue it, and so he --
10 Sturge commenced an action against the debtors to compel
11 arbitration. That is how normally it would have played out.

12 Here he hasn't done that. He's sat for over a year
13 now and he knows --

14 THE COURT: Well, they're telling me that he sent a
15 grievance in, and I'll give you an opportunity to provide some
16 information, something to support that.

17 MR. GAUTHIER: I will.

18 THE COURT: Do you have it in your files?

19 MR. GAUTHIER: I don't have it here at my office. No,
20 Your Honor.

21 THE COURT: All right. We'll see.

22 MR. GAUTHIER: It will be presented to you within one
23 week, Your Honor.

24 THE COURT: All right. What else? You said a moment
25 ago, Mr. Gauthier, that you wanted to bifurcate issues. Until

1 an arbitrator determines if there is a financial claim, I
2 should simply keep the matter before me. You said I have no
3 jurisdiction to decide whether there is a claim or not. It
4 sounds to me like you want arbitration, and that the
5 determination of the arbitrator, as far as you are concerned,
6 would be final.

7 MR. GAUTHIER: That is correct, Your Honor.

8 THE COURT: Final, absolutely final. Enough of this
9 after ten years.

10 MR. GAUTHIER: That's correct.

11 THE COURT: All right. I'm not saying that you're
12 entitled to that relief or I'll grant it, but the record should
13 be perfectly clear that it will be final if it's pursued. Now,
14 what did you want bifurcated?

15 MR. GAUTHIER: I want the matter to be -- the
16 grievances bifurcated from the monetary claim before you so
17 that Captain Friday can appear before a federal arbitrator and
18 have his grievances heard.

19 THE COURT: Well, what is the grievance then?

20 MR. GAUTHIER: There are several grievances, Your
21 Honor, related to his meeting the requirements of returning to
22 work under the pension rule.

23 THE COURT: But that has -- that's the basis for your
24 monetary claim, that he should have been allowed to go back to
25 work. And I am assuming, although I haven't asked you, that he

1 would make more money as an active pilot than he would -- than
2 he got for disability benefits. Is that -- and the difference
3 is your monetary claim, is it not?

4 MR. GAUTHIER: That is correct, Your Honor.

5 THE COURT: All right. So there is a difference. So
6 if you grieve his right to return to work, doesn't the -- or
7 does the arbitrator ordinarily decide how much your damages
8 are?

9 MR. GAUTHIER: That would be correct, Your Honor.

10 THE COURT: So what are you asking this Court -- what
11 are you bifurcating? Does it --

12 MR. GAUTHIER: I (indiscernible) that this Court
13 retain jurisdiction over monetary awards and judgments against
14 the debtor.

15 MR. HAYNES: Your Honor, if I may, I think he's
16 suggesting that the -- that in his view, an arbitrator should
17 determine the validity amount of the claim, and that it will be
18 subject to the plan in this Court.

19 THE COURT: Oh, I see. All right. Mr. Gauthier, it
20 seems to me -- and does the arbitrator also decide whether or
21 not his flight privileges were wrongfully taken from him?

22 MR. GAUTHIER: Yes. There trip grievance is already
23 of record, so that's an easy one.

24 THE COURT: All right. Are there -- so both of these
25 claims in your view should be arbitrated?

1 MR. GAUTHIER: That's correct, Your Honor.

2 THE COURT: What should not be arbitrated, other than
3 the fact that if there is a decision by the arbitrator that he
4 is entitled to X dollars, that that then comes back to this
5 Court as a claim in the bankruptcy case? It doesn't get paid
6 in dollars necessarily. It may be a claim, and therefore it
7 gets paid out in stock.

8 MR. GAUTHIER: All right. Whatever the compensation
9 is is ultimately determined between the debtors, the Court, and
10 Captain Friday, you know, that's what exists, but he's going to
11 have the first right to be able to have his claims heard by the
12 arbitrator.

13 THE COURT: All right. You want all of his claims
14 arbitrated, and you want the arbitrator to make an award which
15 he could then bring back and get admitted as a claim in this
16 bankruptcy case.

17 MR. GAUTHIER: Or amended claim, yes, Your Honor.

18 THE COURT: All right. Well, I assume it would be
19 less than the amount of the claim that he originally filed.

20 MR. GAUTHIER: I would assume so, Your Honor.

21 THE COURT: So the amendment would be an easy
22 proposition. Now, I don't know whether that -- well, what I'm
23 going to do -- well, anything further? Let me ask you if you
24 wish to make any further statement.

25 MR. GAUTHIER: No. I think that concludes my

1 statement, Your Honor.

2 THE COURT: Thank you. It's been -- I think it's been
3 very helpful. And, again, you have a week to put in papers.
4 The debtor can respond if it wishes to, but I --

5 MR. HAYNES: Your Honor, I don't mean to -- I can see
6 where this -- I don't mean to be difficult about the situation,
7 but this is --

8 THE COURT: Well, I'm not demanding --

9 MR. HAYNES: Okay.

10 THE COURT: I'm not determining the matter. I'm not
11 determining that arbitration is appropriate --

12 MR. HAYNES: Okay.

13 THE COURT: -- in this case. I do think the debtors
14 can think about it if they wish to, but I'm not trying to urge
15 the parties to go in one direction or another. I'm trying to
16 clarify what the issues are. And if you want me to decide the
17 matter and don't want to consent to an arbitration, that would
18 finally determine it. I'm not going to rule today.

19 MR. HAYNES: Very well, Your Honor.

20 MR. GAUTHIER: Thank you, Your Honor.

21 THE COURT: All right. Then I'll take it under
22 advisement. You have until next Wednesday to put in any papers
23 relating to the grievance that you believe has already been put
24 in motion, and I'll give the debtors until the following
25 Monday, July 7th, to respond.

1 MR. GAUTHIER: Very good, Your Honor.

2 THE COURT: All right. And you'll obviously send them
3 a copy of any papers that you provide. And thank you very much
4 for helping to clarify the situation.

5 We have now another claim. You are welcome to stay on
6 the telephone if you wish, but --

7 MR. HAYNES: Your Honor, if I may trouble the Court to
8 extend our response time to July 10, if that would be
9 satisfactory.

10 THE COURT: That would be the following Wednesday?

11 MR. HAYNES: Yes, Your Honor.

12 THE COURT: That's fine.

13 MR. HAYNES: Thank you, Your Honor.

14 MR. GAUTHIER: We're going to drop out, Your Honor.
15 Thank you.

16 THE COURT: All right. Thank you.

17 MR. GAUTHIER: Thank you, counsel.

18 MR. HAYNES: Thank you.

19 THE COURT: All right. Now we'll take up Mr. Velez's
20 claim.

21 MR. HAYNES: Your Honor, this is the reorganized
22 debtors' motion to estimate and cap proof of Claim Number 10341
23 files by Mr. Velez. To be perfectly clear, we are not asking
24 this Court to address the merits of the underlying claim.
25 Rather, this is a matter of categorization under the plan.

1 And the reason why it's important, the debtors
2 believe, to get a ruling on this is because this is a claim
3 that is subject to the alternative dispute resolution
4 procedures, and the parties are essentially comparing apples
5 and oranges right now. Mr. Velez thinks he has potentially a
6 five-million-dollar claim.

7 The debtors' position is that under the plan, even if
8 that claim was completely and 100 percent valid and in the full
9 filed amount, because of the operation of the subordination
10 provisions of the plan, he would not be entitled to a recovery
11 on any part of that claim except for his actual pecuniary loss,
12 which according to papers he initially filed the debtors
13 believe would not exceed approximately \$82,000.

14 THE COURT: All right.

15 MR. HAYNES: In response, I think Mr. Velez and the
16 debtors are talking past each other. He seems to think we're
17 attacking the validity of the claim or suggesting that this
18 Court's ruling would somehow make a determination in that
19 respect, and it would not. But I just -- the debtors are
20 trying to manage the expectations with respect to this claim,
21 and such that Mr. Velez would understand that even if his claim
22 were allowed, that because of the plan and the way it works, he
23 wouldn't be entitled to a distribution on a majority of the
24 claim.

25 THE COURT: All right. Let me see if I understand

1 your view of the claim and the elements of the claim, and I can
2 also -- obviously I'll ask Mr. Velez. I'm looking at -- also,
3 by the way, before we start, Mr. Velez gave me a letter. It
4 doesn't show a copy to you. I'll hand you a copy of a letter
5 dated June 21.

6 Did you give a copy to the debtor? You have to give -
7 - anything you give to me has to go to the --

8 MR. VELEZ: No, Your Honor. That was just on a
9 personal level.

10 THE COURT: -- lawyers for the debtor. And you state
11 that you apologize. There's nothing for you to apologize for,
12 nor is there any need for you to come up to New York for
13 hearings before the Court, but I am pleased that you are here.
14 I mean, I'm not trying to deter you from coming. I'm simply
15 trying to make it a little easier for parties who don't come
16 from New York to be heard, and you certainly could be heard by
17 telephone.

18 Now, you have a claim. The purpose of this proceeding
19 is not to determine it, determine any part of it, but to
20 determine whether parts of it are under the plan and under the
21 bankruptcy provisions subordinated to other claims. And since
22 general unsecured claims haven't been paid in full, then there
23 would be no recovery.

24 Now, my recollection of the plan, and I don't have the
25 pages before me, is that punitive damages were unquestionably

1 subordinated in the plan. The reason for that provision is the
2 following: Thousands of creditors like yourself, including
3 employees who took very substantial wage cuts and benefit cuts
4 and got a claim as part compensation, thousands of individuals
5 and many companies and other creditors are putting claims
6 against the airline.

7 There is no question that the airline is not paying
8 those claims in full. It's providing stock. The stock was
9 worth more a year ago when they came out of bankruptcy. It's
10 worth less today, but even when they came out, general
11 creditors, including thousands of union members, were not going
12 to get paid in full. I'm talking about the union claims. They
13 weren't individual union member claims, but the unions got big
14 claims, and perhaps your union is the flight attendants union.

15 MR. VELEZ: Yes, sir.

16 THE COURT: I believe got a large claim, too, and
17 whether or not you shared, I don't know. I don't know what the
18 -- you did not because you were already --

19 MR. VELEZ: Been terminated.

20 THE COURT: -- off the payroll.

21 MR. VELEZ: Right.

22 THE COURT: But the fact that general creditors
23 weren't being paid in full meant that the plan could
24 appropriately provide the punitive damages -- which are to
25 punish the defendant -- would not be paid because they're not

1 for actual loss. And in bankruptcy it's not at all unusual for
2 punitive damages to be subordinated. That if general claims
3 get paid in full, well, then perhaps punitive damage claims can
4 be paid. But when they're not, we don't usually pay claims for
5 anything other than real losses.

6 So I think I can state very easily, although I'll hear
7 from you, that all of your punitive damage claims should be
8 subordinated. Now, what are they? I look at the schedule that
9 you attached to your June 8th pleading, and I see under the
10 heading of Mr. Lori (phonetic) a schedule adding up to \$4.6
11 million, including other costs of 3,155,000. I see that
12 3,155,000 made up of \$500,000 emotional distress, and
13 \$2,655,000 for punitive damages.

14 So I can state on this record -- and on your own
15 papers but I'll hear from you -- that tentatively the punitive
16 damages should be subordinated, and you would get no recovery
17 from them. They're not necessarily disallowed, but by being
18 subordinated under the facts of this matter, you would get
19 nothing.

20 Now I will go back and ask the debtors why the
21 emotional distress damages -- assuming that there are any
22 because that's another question, but I'm not dealing with that
23 today -- why those fell within the concept of subordination
24 under the plan.

25 MR. HAYNES: Your Honor, under the --

1 THE COURT: And -- okay. Well, let's start with that
2 question.

3 MR. HAYNES: Your Honor, under the plan, damages that
4 are not for actual pecuniary losses are subordinated. And the
5 applicable law here under Title 7, the cap on compensatory
6 damages under Title 7 differentiates between future pecuniary
7 losses on the one hand and emotional pain, suffering,
8 inconvenience, et cetera, and other non-pecuniary losses on the
9 other.

10 And, in addition, that there's case law. For
11 instance, the Elvid (phonetic) case out of the Ninth Circuit
12 that says Title 7 places a cap on the total amount of
13 compensatory damages that may be awarded for emotional pain and
14 other non-pecuniary losses. Accordingly, the courts in the
15 circuit that applies here view emotional distress damages as
16 non-pecuniary. Because they're non-pecuniary, it's our view
17 that those would be subordinated under the plan, which
18 subordinates claims other than for actual pecuniary loss.

19 THE COURT: All right. Now, I see a calculation --

20 MR. HAYNES: If you look at Paragraph 15 and 16 of our
21 initial objection -- our motion, Your Honor, that breaks down
22 our view of the particular aspects of the claim.

23 THE COURT: Yes. I was looking at that, and you say
24 of the five million, 3.3 million are punitive and exemplary
25 damages, and my only question is as to the \$500,000 of that

1 being within the concept. But I have to go back and look at
2 what the plan says, as well, with regard to subordination
3 because I don't hear you saying that I should eliminate these
4 damages because they're not under Title 7 or they're not
5 timely. That's not an issue.

6 MR. HAYNES: That's not -- well --

7 THE COURT: It might be an issue.

8 MR. HAYNES: It may be an issue, but we're not --
9 that's not the issue we're raising before the Court.

10 THE COURT: That's not an issue today. All right.
11 Now, of the other damages, on the damages summary, I see
12 damages for earnings of 134,000 and lost income for past, and
13 95,000 for lost fringe benefits for the past.

14 MR. HAYNES: Your Honor --

15 THE COURT: And that's the amount that you say should
16 remain as a claim.

17 MR. HAYNES: Your Honor, this subsequent filing with
18 these numbers is inconsistent with his prior breakdown of his
19 damages. His prior breakdown of damages had net current loss
20 back wages at only \$55,768, and that was in his claim summary
21 that he submitted in connection with the ADR procedure.

22 But if --

23 THE COURT: All right. Now, why -- all right. But go
24 ahead, finish your sentence.

25 MR. HAYNES: That's just an issue we would like to

1 raise with the Court.

2 THE COURT: All right. That's a minor -- not minor to
3 Mr. Velez, but in terms of setting an estimated amount, it's a
4 minor issue. Why isn't future lost wages an appropriate claim
5 for actual losses?

6 MR. HAYNES: Your Honor, in the Ninth Circuit, claims
7 for front pay are not considered to be compensatory damages.
8 They're considered equitable, and in the enforcement guidance,
9 one of the enforcement guidance publications by the U.S. EEOC,
10 it specifically says that front pay is excluded from the
11 definition of compensatory damages.

12 THE COURT: All right. And the other element in Mr.
13 Velez's chart is -- I believe that's all we have, lost income,
14 lost fringe benefits, future income, future benefits. We have
15 punitive damages and we have emotional suffering. And is that
16 all? I think that -- is that everything as far as the debtor
17 is concerned?

18 MR. HAYNES: Well, he did --

19 THE COURT: Those are the four elements?

20 MR. HAYNES: To be --

21 THE COURT: Five elements?

22 MR. HAYNES: To be clear, he did -- perhaps he's
23 broken them down farther in his claim summary that he
24 previously submitted, but he did include in that claim summary
25 195,000 for legal fees.

1 THE COURT: Oh, ninety-five, yeah, uh-huh.

2 MR. HAYNES: And loans and sold property of 55,000,
3 and then retraining costs of 240,000.

4 THE COURT: And what are you asking me to do about
5 those?

6 MR. HAYNES: Well, Your Honor, Mr. Velez initially is
7 pro se, and has -- and so we're questioning the legal fee
8 aspect, and moreover, to the extent that he hasn't actually
9 paid this out to anybody, there's no actual pecuniary loss
10 here. In addition, again, California law as set forth in our
11 motion makes clear that recovery -- excuse me -- that
12 litigation expenses and attorneys' fees are separate from
13 pecuniary losses under Title 7. But in any event, he hasn't --
14 we don't believe he's spent any of this amount.

15 THE COURT: All right.

16 MR. HAYNES: So there's no loss. And, frankly, we
17 didn't quite understand the loans and sold property aspect of
18 it, but there was no backup indicating there was any actual
19 spent on his part there that would be compensable in any event.

20 THE COURT: All right. And you believe this -- the
21 determination of damages should be in what form?

22 MR. HAYNES: Your Honor, right now we're still
23 optimistic that if we can get a reasonable cap on this claim,
24 that we'll be able to work with Mr. Velez to resolve the claim
25 consistent with the ADR procedures under the plan. If and to

1 the extent that the arbitrator determines in Northwest's favor
2 and Mr. Velez wishes to contest that, then we would decide at
3 that point in which -- what would be the most appropriate forum
4 in which that matter should go forward.

5 THE COURT: All right. Mr. Velez, you can come to the
6 podium or you can stay there, whatever you prefer.

7 MR. VELEZ: Your Honor, thank you for allowing me in
8 your court, and again that note that I sent you was on a
9 personal level. I just happen to have a psychological
10 condition that when I hear a stern voice or any yelling, I
11 start getting nervous.

12 THE COURT: I certainly hope you didn't hear me
13 yelling because I didn't yell.

14 MR. VELEZ: It just came out a little bit abrupt, and
15 it was --

16 THE COURT: Well, I try to clarify matters, and when
17 they're not clarified I may get a little impatient sometimes.

18 MR. VELEZ: And I -- I'd like to elaborate a little
19 bit on that. I seem to be lost at that moment, and it's --

20 THE COURT: Well, maybe what you should do is get a
21 lawyer to represent you. You have apparently had Mr. Lori help
22 you on the damages calculation.

23 MR. VELEZ: Yes, Your Honor. As far as that, and I
24 could tell you why I don't have a lawyer is because I have
25 exhausted every single financial cent that I have, including my

1 parents' retirement, as well as my 401(k) and any other money
2 that I've earned in my life. And I'm about ready to lose my
3 home, not because I took a sub-prime loan but because I feel
4 that Northwest Airlines does owe some kind of payment for what
5 they did to me.

6 Now, I'd like to point out that I have cooperated with
7 the ADR procedure fully. I have in many instances have talked
8 to counsel. I have talked to their Minneapolis counsel, Ms.
9 Tracy Steinberg. I have talked to Ms. Melissa Stepman
10 (phonetic). And all this time it has not been about making all
11 these millions of dollars. My main purpose of contesting
12 Northwest Airlines' termination of my employment is that they
13 did not give me equal rights under Title 7 when they terminated
14 me. They did no investigation whatsoever.

15 We're talking a twenty-year veteran, a purser who has
16 never had a complaint, terminated on the "he said" of a
17 supervisor who has been complained time and time and after, and
18 a base manager who had been sued and lost under the same
19 conditions of discrimination and harassment.

20 Now, the reason I winded up in this demise is because
21 I am a witness to a harassment and discrimination, and I know
22 counsel will cringe at this, but it involves Mr. Orville Mukes
23 (phonetic) which also has a claim here in the bankruptcy court.
24 Eric Emerson at the time was my manager. He actually
25 retaliated against me because he knew I was going to testify.

1 They went ahead and trumped up charges against me. Mr. Baker,
2 the supervisor who was actually not my supervisor, assaulted me
3 on a flight and then claimed that I did that. He said/he said
4 situation.

5 They went ahead and hired a arbitrator who actually
6 has been banned from ever again ruling on any union property
7 because of his deliberation. Actually, Mr. -- Senator Arlen
8 Specter has criticized this arbitrator's ruling. Furthermore,
9 I would like to bring up to the Court that the National
10 Arbitration Forum which would probably be deliberating on my
11 arbitration should the Court allow me to go into arbitration
12 has actually been sued by the City of San Francisco because out
13 of 18,000 cases that they have deliberated on and applied
14 arbitrators to, only 30 has gone in favor of the consumer so --

15 THE COURT: Now, you said a moment ago that, you know,
16 if the Court would permit you to go to arbitration. Is that
17 what you want?

18 MR. VELEZ: Your Honor, at this point because the
19 National Forum of Arbitration is the one that Northwest chose,
20 I don't feel comfortable with that. I would possibly feel more
21 comfortable actually seeing my case in civil court. Now, I
22 believe --

23 THE COURT: So you don't want me to grant arbitration?
24 All right. I just want to understand.

25 MR. VELEZ: Sure.

1 THE COURT: You just said, if the Court would allow me
2 to go to arbitration, but that's now what you really want.

3 MR. VELEZ: Right. And, you know, I will say
4 something that I've been kind of standing here in your court
5 for the last three days watching how you deliberate. And you
6 say you don't know anything about airlines or the music
7 business. I don't know anything about the law. I am standing
8 --

9 THE COURT: Well, what I said a few days ago, if you
10 were here --

11 MR. VELEZ: Managing, right.

12 THE COURT: -- is that I don't -- you know, it's a
13 well-known statement when somebody says, I'm not running the
14 airline.

15 MR. VELEZ: Right, right.

16 THE COURT: So I made a comment in a music case that I
17 probably know less about running a music company than I know
18 about running an airline, and I don't know very much about
19 running an airline. That's not my job.

20 MR. VELEZ: Right again, Your Honor. And the way I'm
21 trying to convey this is that I have had to be the one to
22 learn about the law here. When Northwest went into bankruptcy,
23 this is a totally different field. This is Chinese to me.
24 Okay. Now I am basically putting myself in your hands to make
25 a decision on what's fair.

1 THE COURT: All right. Can I ask you a question?

2 MR. VELEZ: Yes, sir.

3 THE COURT: In your calculations, your damages summary
4 that Mr. Lori apparently helped you with or --

5 MR. VELEZ: Yes.

6 THE COURT: Which is fine. Again, I would urge you,
7 if you can, to get his assistance, or the assistance of any
8 lawyer. But there is a column under damages summary for future
9 values and present values. The present value number -- the
10 numbers aren't that different, but the present value numbers
11 are a little bit higher. Well, no. There's the each -- under
12 each column there is a column past and there is a column
13 future. Can you explain what those columns mean?

14 MR. VELEZ: You know, Your Honor, I really can't
15 explain it without his assistance.

16 THE COURT: Okay.

17 MR. VELEZ: Because he actually did that on a
18 computer, and he took my information, you know, to be able to
19 help me out during the mediation. I want to point out, and now
20 that we're talking about the forum, I've been trying to
21 negotiate with the debtors for quite some time, and it's been a
22 process of three years.

23 They -- Ms. Stepman called me and told me that she
24 needed to turn down my claim because it was over a million. I
25 told Ms. Stepman that I would have an attorney draw up a

1 counteroffer that would be under a million.

2 Now, in every single counteroffer that we have
3 submitted to Northwest, the one thing that stands out is
4 reinstatement of my job. California, the Government Code
5 Section 12:9:40 will basically allow a court to reinstate me if
6 they find that there has been malice and wrongdoing. I can
7 prove the malice and wrongdoing. Actually, today as we speak,
8 Mr. Orville Mukes is having his arbitration, union arbitration
9 which was mandated by this Court to go back and do their
10 administrative remedies.

11 There has been testimony that has surfaced that will
12 prove that Eric Emerson did, along with some other employees,
13 malicely conspire to have this African American terminated, and
14 discredit me and terminate me to validate the claims against
15 Mr. Mukes.

16 Now, it seems to me that knowing that Mr. Mukes will
17 come up ahead on this arbitration, and that he will regain his
18 job as well as losses, emotional distress and all that, it
19 seems to me that I would be entitled to something like that if
20 I am able to present my case in an appropriate venue.

21 Now, I know that your court is basically under
22 bankruptcy, and I -- again, I don't understand anything about
23 bankruptcy. What I'm saying, Your Honor, is that even though
24 Cadwalader -- and I'm sorry if I mispronounced that -- says
25 that I can't prove it, that's their say. I can prove my claim

1 beyond a reasonable doubt.

2 And furthermore I would like to also say about the
3 negotiations that I've been doing with Northwest and
4 Cadwalader, the other day, the reason I was stunned was because
5 I had made an arrangement, an agreement verbal, and I would
6 like to thank Mr. Lehman for teaching me a valuable lesson. We
7 made an agreement over the phone that they would ask the Court
8 to allow me thirty days to be able to write this motion.

9 Now, I am dyslexic. It's -- I mean, I know that it
10 looks like I may have been a lawyer in a previous life, but it
11 takes a lot for me to be able to write something like this.
12 And I am on the medication and therapy so, you know, I pat
13 myself on the back. But what's been happening is that Mr.
14 Lehman told me, okay, you will have the thirty days, you do not
15 have to agree to a cap of 700,000.

16 The other day he sends another attorney, and I can't
17 remember his name, and they did the complete opposite. That's
18 why I was stunned, Your Honor. Okay. I don't have it in
19 writing, okay, and maybe that's the way he operates. I don't
20 know the law.

21 The other thing that I would like to point out is that
22 all the notices that they submit to the Court on file get sent
23 to my place at the very last moment. This was issued
24 yesterday. It arrived at my home in Florida in the afternoon.
25 There's no way I could have contested this, so I'm --

1 THE COURT: What are you referring to, their reply?

2 MR. VELEZ: Yes, their response.

3 THE COURT: All right. Well, their response isn't
4 late, but you had an -- it's only three pages. You had a
5 chance to read it before now?

6 MR. VELEZ: Yes. I had a chance to read it.

7 THE COURT: Okay, good.

8 MR. VELEZ: But that's only because my neighbor
9 actually picked up the FedEx package because there wasn't a
10 signature required.

11 THE COURT: Well, I certainly would have given you
12 more time to read it, and --

13 MR. VELEZ: So --

14 THE COURT: But I'm glad you had a chance.

15 MR. VELEZ: And that's the same thing that happened
16 when they submitted their estimate to cap the damages. They
17 sent it knowing that it was Memorial weekend, and there was no
18 way that I could have gone to a law library to be able to
19 research my rights.

20 So, Your Honor, I guess what I'm trying to say is that
21 under the circumstances, the fact that I am not an attorney,
22 the fact that I do have a condition, and that clearly they're
23 claiming that I already had my arbitration. Well, I've stated
24 a few laws here that basically says that arbitration is not
25 binding, that I can take it to civil court if I want to.

1 I guess what I'm saying, Your Honor, is that they want
2 to cap it at \$82,000. That's not going to pay for anything
3 that I've spent, the emotional distress, none of that at all.
4 I've made offers to the debtors.

5 THE COURT: Well, I don't want to hear what they were.
6 Don't tell me any of the specifics, anything about the offers.

7 MR. VELEZ: Well, it's been very reasonable. Okay.

8 THE COURT: Okay. That's all -- you really shouldn't
9 -- I don't -- it's not appropriate for me to get in the middle
10 of settlement discussions.

11 MR. VELEZ: I understand. I guess what I'm trying to
12 convey here is that I am not putting any objections for them to
13 settle this claim, but I do want the attorneys and, you know,
14 I'm competing against three different law firms, the in-house,
15 the ones in Minneapolis, and Mr. Haynes here. I would like
16 them to at least deal with me in an up-front and fair manner,
17 and not to try to minimize the costs when they -- they've read
18 all this. They've read my files. They have every single piece
19 of paper, yet they claim that they -- Mr. Lehman told me that
20 he didn't get the supplemental, that all they have is this.

21 Well, that supplemental was submitted during the
22 mediation, and Mr. Lori had actually had arrived at certain
23 conditions for settlement during the mediation. Northwest's
24 counsel was embarrassed to stand there at the very end of the
25 day when they knew they already had certain things ironed out

1 to offer \$1,000 after they knew I had spent about \$8,000 just
2 to get to Minneapolis to hire a counsel to review the claim
3 damages and to represent me.

4 And, you know, respectfully, I don't want to use
5 laymen's terms, but I've just been getting jerked around
6 because they know my financial status. They know I'm not being
7 represented. Your Honor, the way I look at is if they are
8 allowed to do this, that's basically saying, okay, anytime that
9 there's something wrong, any kind of racial discrimination, any
10 kind of hate crimes, which is this is plainly a hate crime.
11 Okay. A burned Puerto Rican flag inside a personal mailbox is
12 a hate crime. When the supervisor tries to dissuade the person
13 from calling the police and then tampers with the evidence,
14 that is malice. I can prove all this. I have the witnesses.

15 Now, I don't want to take away from the other
16 claimants. All I want, Your Honor, is my job back, a certain
17 amount of restitution which I am entitled to, and that's it.
18 The calculations that Mr. Lori made here, obviously he's an
19 attorney. Again, I don't know anything about the law, but they
20 must be valid because I came close to the same calculations.

21 THE COURT: All right. Thank you very much, Mr.
22 Velez. I am going to study the papers, and I'll get out a
23 written ruling as soon as I can.

24 MR. VELEZ: Thank you, Your Honor. I appreciate your
25 time.

1 THE COURT: Thank you very much for coming up to
2 court.

3 MR. VELEZ: Thank you.

4 THE COURT: Anything further, Mr. Haynes?

5 MR. HAYNES: No, Your Honor.

6 THE COURT: All right. Then we have concluded the
7 agenda for today. Thank you.

8 MR. HAYNES: Thank you, Your Honor.

9 THE COURT: Also, you have one matter on I think next
10 Wednesday. Is there any reason why you shouldn't put that on
11 for the middle of July when you're back here again?

12 MR. HAYNES: I will speak to opposing counsel on that,
13 Your Honor.

14 THE COURT: Yeah. I think unless there's some reason
15 I have to put another major hearing on for that day.

16 MR. HAYNES: Very well, Your Honor.

17 THE COURT: Also, I have notice that I have a request
18 by Mr. Small on behalf of AT&T for a conference so he can make
19 a motion for summary judgment on one of the TIA matters. I
20 think we should -- I think all parties who are interested in
21 the same issue should have an opportunity to be heard on that.
22 He wants to amend the scheduling order. I don't know if it's
23 premature or not, but maybe it would make sense to have a
24 hearing -- well, he scheduled this actually for July 16th,
25 which is your mid July --

1 MR. HAYNES: That's correct.

2 THE COURT: Maybe we should have a hearing then, and I
3 think all of the parties to the TIA issue should be at least
4 given an opportunity to appear. And I would think that should
5 include GFCC because I have been troubled by the -- deciding
6 any of the issues without giving everybody an opportunity to be
7 heard on what are very similar issues, I think. And I don't
8 know that -- well, anyway, I shouldn't go any further on GFCC
9 without them being here, but I think they might be also given
10 an opportunity.

11 I gather that BAE has been paid.

12 MR. HAYNES: Yes.

13 THE COURT: So that there's no -- I mean, GFCC would
14 like obviously a determination, but they can tell me, and if
15 you would tell them of this colloquy, they can tell me if
16 there's any need for them to be out in front any longer.

17 MR. HAYNES: Very well.

18 THE COURT: Thank you.

19 MR. HAYNES: Thank you, Your Honor.

20 THE COURT: And I appreciate it if you would tell Mr.
21 Small of this colloquy and ask him to consult with the other
22 claimants who are parties to this pretrial order.

23 MR. HAYNES: I certainly will.

24 THE COURT: Thank you.

25 MR. HAYNES: Thank you.

1 THE COURT: All right. Thank you very much.

2 (Proceedings concluded at 1:03 p.m.)

3 *****

4 CERTIFICATION

5 I, certify that the foregoing is a correct transcript
6 from the electronic sound recording of the proceedings in the
7 above-entitled matter to the best of my knowledge and ability.

8

9 Agency Typist: Ilene Watson

10



11

June 28, 2008

12 _____
13 Coleen Rand, AAERT Cert. No. 341
14 Certified Court Transcriptionist
15 For Rand Reporting & Transcription, LLC
16
17
18
19
20
21
22
23
24
25